

BEFORE THE BOARD OF APPEALS FOR PRINCE GEORGE'S COUNTY, MARYLAND
Sitting as the Board of Zoning Appeals

Petitioners: Thomas and Martha Smith

Appeal No.: V-96-19

Subject Property: Lots 7 thru 13, Block 21, Bowie Subdivision, 9011 Chestnut Avenue, Bowie,
Prince George's County, Maryland

Witness: Kwesi Badu, Neighbor

Heard: October 23, 2019; Decided: November 6, 2019

Board Members Present and Voting: Bobbie S. Mack, Chairperson
Albert C. Scott, Vice Chairman
Anastasia T. Johnson, Member

RESOLUTION

This appeal is brought before the Board of Appeals, sitting as the Board of Zoning Appeals for the Maryland-Washington Regional District in Prince George's County, Maryland (the "Board"), requesting a variance from the strict application of the provisions of Subtitle 27 of the Prince George's County Code (the "Zoning Ordinance").

In this appeal, a proceeding pursuant to Section 27-229 of the Zoning Ordinance, Petitioners request that the Board approve a variance from Section 27-447(a) which prescribes that fences and walls more than 6 feet high shall not be located in any required yard and shall meet the setback requirement for main buildings. Petitioners propose to construct a 6-foot vinyl privacy fence in the legal front yard of a corner lot. A waiver of the fence location and height requirement (abutting 3rd Street) is requested.

Evidence Presented

The following testimony and record evidence were considered by the Board:

1. The property was subdivided in 1932, contains 12,500 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling and driveway. Exhibits (Exhs.) 2, 3, 4, 7, 8 and 9 (A) thru (F).

2. The property is comprised of seven (7) very long and narrow lots situated at the corner of Chestnut Avenue and 3rd Street with the legal front yard being on 3rd Street. The house is facing the legal side yard on Chestnut Avenue. Exhibits (Exhs.) 2, 3, 4, 7, 8 and 9 (A) thru (F).

3. Petitioners would like to install a 6-foot vinyl privacy fence around the back yard. Because the subject property is located on a corner, a portion of the "backyard" abuts 3rd Street. Therefore, a waiver of the fence location and height requirement is requested. Exhs. 2, 3 and 5 (A) thru (H).

4. Petitioner Thomas Smith testified that he has 3 young children (ages 4, 6 and 8 years old) and a daughter. He stated that a 4-foot fence would not provide sufficient safety for the children. Exhs. 2, 3 and 5 (A) thru (H).

5. Mr. Badu (13104 3rd Street) stated that his concern is that the fence will obstruct his view of the side of his garage. He is concerned that someone could become stealth, hide and then break into his garage¹.

¹ It was noted at the hearing that, per plat book and page, Bowie A @ 133, a 5-foot alley is located between the subject property and Mr. Badu's property; currently there is at least an 8-foot setback from Mr. Badu's house and his left side property line. Thus, if the fence were installed as proposed, there will be approximately 13-feet between the proposed fence and Mr. Badu's garage. Exh. 2.

He further stated that in addition, he will have problems exiting his driveway because of the proposed location and height of the fence. Exhs. 2, 3 and 5 (A) thru (H).

Applicable Code Section and Authority

Section 27-230 of the Zoning Ordinance authorizes the Board to grant variances when, by reason of exceptional narrowness, shallowness, shape, topography, or other extraordinary situation or condition of specific parcels of property, the strict application of the Zoning Ordinance would result in peculiar and unusual practical difficulties or an exceptional or undue hardship upon the owner of the property, provided such relief can be granted without substantial impairment of the intent, purpose and integrity of the General Plan or Master Plan.

Findings of the Board

After hearing all the testimony and reviewing the evidence of record, the Board finds that the requested variance complies with the applicable standards set forth in Section 27-230, more specifically:

Due to the subject property being a corner lot, the pre-existing configuration of the dwelling on the corner lot, the need for safety and privacy of young children, the 13 feet distance between the proposed fence and Mr. Badu's garage, and the character of the neighborhood, granting the relief requested would not substantially impair the intent, purpose and integrity of the General Plan or Master Plan, and denying the request would result in a peculiar and unusual practical difficulty upon the owners of the property.

BE IT THEREFORE RESOLVED, unanimously, that a waiver of the fence location and height requirement (abutting 3rd Street) in order to construct a proposed a 6-foot vinyl privacy fence in the legal front yard of a corner lot on the property located at 9011 Chestnut Avenue, Bowie, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variance is contingent upon development in compliance with the approved site plan, Exh. 2 and approved elevation plan, Exh. 3.

BOARD OF ZONING APPEALS

(
By: _____
ORIGINAL SIGNED)
Bobbie S. Mack, Chairperson

NOTICE

Within thirty (30) days from the date of this decision, any person, firm, corporation, or governmental agency who was a party to the Board's proceedings and is aggrieved by its decision may file an appeal to the Circuit Court of Prince George's County.

Further, Section 27-233(a) of the Prince George's County Code states:

A decision of the Board, permitting the erection of a building or structure, shall not be valid for more than two (2) years, unless a building permit for the erection is obtained within this period and the construction is started and proceeds to completion in accordance with the terms of the decision and the permit.